

## Oil and Hazardous Materials Incident Annex

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### Coordinating Agencies:

Environmental Protection Agency  
Department of Homeland Security/U.S. Coast  
Guard

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### Cooperating Agencies:

Department of Agriculture  
Department of Commerce  
Department of Defense  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation  
General Services Administration  
Nuclear Regulatory Commission

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## Introduction

### Purpose

This annex describes roles, responsibilities, and coordinating mechanisms for managing certain oil and hazardous materials<sup>1</sup> pollution incidents that are determined to be Incidents of National Significance. This annex addresses those oil and hazardous materials Incidents of National Significance that are managed through concurrent implementation of the National Response Plan (NRP) and the NCP,<sup>2</sup> but are not Emergency Support Function (ESF) #10 – Oil and Hazardous Materials Response activations. Procedures for oil and hazardous material Incidents of National Significance for which ESF #10 is activated are addressed in the ESF #10 Annex.

### Scope

- The NCP provides the organizational structure and procedures for Federal response to releases of oil and hazardous materials in the United

States and its territories, accidental or intentional. The NCP addresses incident prevention, planning, response, and recovery.

The hazardous materials addressed under the NCP include certain substances considered weapons of mass destruction (i.e., chemical agents, biological agents, and radiological/nuclear material).

- The NCP establishes structures at the national, regional, and local levels that are used to respond to thousands of incidents annually that never rise to the level of an Incident of National Significance. When an Incident of National Significance does occur, these NCP structures remain in place to provide hazard-specific expertise and support. This annex describes how the NCP structures work with NRP coordinating structures during Incidents of National Significance.

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<sup>1</sup> For the purposes of this annex, “hazardous materials” is a general term intended to mean hazardous substances, pollutants, and contaminants as defined by the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

<sup>2</sup> Found at 40 CFR part 300. The establishment of the NCP is required by section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, and by section 311(d) of the Clean Water Act, as amended by the Oil Pollution Act of 1990.

## Policies

- It is expected that most Incidents of National Significance involving oil and hazardous materials are managed through an ESF #10 activation, but it is possible that an Incident of National Significance involving oil and hazardous materials could occur for which ESF #10 would not be activated.
- Some oil and hazardous materials incident responses may be initiated under the NCP alone, or under this annex as an Incident of National Significance, then transition to ESF #10 after a Stafford Act declaration is made (or after ESF #10 is activated via the NRP Federal-to-Federal support mechanism). Federal On-Scene Coordinators (OSCs) have independent authority under the NCP to respond to an oil or hazardous materials incident and may initiate initial response activities before the Department of Homeland Security (DHS) determines whether the incident is an Incident of National Significance and/or the President declares a Stafford Act major disaster or emergency.
- NCP structures and response mechanisms remain in place during an Incident of National Significance involving an actual or potential release of oil or hazardous materials, and coordinate with NRP mechanisms as described in this annex.
- Under the NCP, the OSC conducts response activities from the Incident Command Post (ICP) level. A Unified Command may be established with Federal, State, local, and/or tribal authorities, as appropriate. State, local, and/or tribal authorities are typically the initial responders to an oil or hazardous materials incident.
- The NCP provides that the Environmental Protection Agency (EPA) or U.S. Coast Guard (DHS/USCG) may classify an oil discharge as a Spill of National Significance (SONS). For a SONS, EPA or DHS/USCG may name a “senior Agency official” (EPA) or National Incident Commander (DHS/USCG) who assists the OSC, or assumes certain functions of the OSC, respectively (e.g., communicating with the affected parties and public, coordinating resources at the national level). EPA and DHS/USCG maintain authority for classifying a discharge a SONS. DHS maintains authority for classifying an incident an Incident of National Significance. A SONS may or may not be an Incident of National Significance, depending on the determination of DHS. Further, DHS may determine that an NCP response that is not a SONS nevertheless rises to the level of an Incident of National Significance.
- Hazardous materials addressed under the NCP include certain biological and radiological substances. The Biological and Nuclear/Radiological Incident Annexes may therefore be implemented simultaneously with this annex for an Incident of National Significance. The Biological and Nuclear/Radiological Incident Annexes describe additional procedures and Federal agency responsibilities for biological and radiological/nuclear incidents that are not addressed in this annex, and are used in conjunction with this annex when applicable.
- NCP provisions are summarized in this annex for purposes of brevity. The references in this annex to NCP provisions are not intended to change NCP requirements or interpretations.
- Nothing in the NRP alters or impedes the ability or authorities of designated Federal officials to carry out their duties under the NCP or to coordinate directly with their agency in execution of these duties.
- An Incident of National Significance involving oil or hazardous materials that is a result of a criminal act or results in a criminal act, but is not an act of terror, is investigated by EPA Special Agents assigned to the EPA Criminal Investigation Division (CID) in coordination with the Federal OSC and Senior Federal Official (SFO). In this case, the EPA CID Special Agent in Charge of the local Area Office serves as the Senior Federal Law Enforcement Official in the Joint Field Office (JFO) Coordination Group.

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## Concept of Operations

**Coordination Structures:** Figure 1 lists the coordinating mechanisms in the NRP along with parallel, but not necessarily equivalent, structures in the NCP. The key NCP structures are described further below. The sections that follow summarize the coordination between NRP and NCP structures during Incidents of National Significance.

FIGURE 1. NRP coordinating mechanisms and hazard-specific NCP structures

	NATIONAL		REGIONAL	FIELD			ON-SCENE	
<b>N R P</b>	<b>Interagency Incident Mgmt Group</b>	<b>Homeland Security Ops Center</b>	<b>Regional Response Coordination Center</b>	<b>Principal Federal Official</b>	<b>Joint Field Office</b>	<b>JFO Coordination Group</b>	<b>N/A</b>	<b>Incident Command Post</b>
<b>N C P</b>	National Response Team	EPA or DHS/USCG HQ Emergency Ops Center	Regional EPA or DHS/USCG Emergency Ops Center*	EPA or DHS/USCG Senior Federal Official	N/A	Regional Response Team	Federal On-Scene Coordinator	Incident Command Post

\* EPA regional emergency operations centers are called Regional Response Centers.

**NCP National Response Team (NRT):** Under the NCP, the NRT coordinates a program of preparedness, planning, and response to oil and hazardous materials incidents at the local, regional, and national levels; facilitates research to improve response activities; and provides assistance for responses to specific incidents as needed. The NRT is composed of 16 Federal agencies with responsibilities and capabilities in preparedness, planning, and response to oil and hazardous materials incidents. On a day-to-day basis, the EPA is the Chair of the NRT, and DHS/USCG serves as the Vice Chair.

During an incident, the NRT Chair transitions to the member agency that provides the Federal OSC for that incident. The NRT may be activated for an incident to:

- Monitor and evaluate reports from the OSC and recommend actions, through the Regional Response Team (RRT), to address the spill;
- Request other Federal, State, local, and tribal governments or private agencies to provide resources; and

- Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

**NCP Regional Response Teams:** The NCP also establishes 13 RRTs to coordinate preparedness, planning, and response at the regional level, and requires Area Committees composed of local, tribal, State, Federal, and private-sector responders to coordinate preparedness and planning at the local level. The NCP cross-references provisions of the Emergency Planning and Community Right-to-Know Act (EPCRA) that require establishment of State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs). Through regulation, EPA has designated federally recognized tribes as Tribal Emergency Response Commissions (TERCs) with the same responsibilities as States in implementing EPCRA. LEPCs prepare local hazardous materials emergency plans, coordinating their local area planning activities with SERCs and TERCs. RRTs, SERCs, TERCs, and LEPCs should keep each other apprised of, and coordinate, their activities. Each Area Committee, in consultation with the SERCs, TERCs, and LEPCs, develops an Area Contingency Plan (ACP) for its designated area.

On a day-to-day basis, EPA and DHS/USCG co-chair the RRT. When activated in support of an incident, the RRT Chair transitions to the member agency that provides the Federal OSC for that incident. During an incident, the RRTs coordinate with the NRT and provide support to the Federal OSC. RRTs:

- Monitor and evaluate reports from the Federal OSC and make recommendations to address the spill;
- Request other Federal, State, local, and tribal governments or private agencies to provide resources;
- Help prepare information releases for the public and for communication with the NRT; and
- Make recommendations, if needed, to the regional or district head of the agency providing the Federal OSC to designate a different Federal OSC.

**NCP On-Scene Coordinators:** The NCP outlines the responsibility of the pre-designated Federal OSCs to determine the need for Federal response, direct response efforts, and coordinate all other efforts at the scene of a discharge or release in accordance with existing delegations of authority.<sup>3</sup> OSCs carry out their duties from the ICP. For oil discharges, depending on the location, the agency providing the Federal OSC is either EPA or DHS/USCG. For hazardous substance emergencies, the agency providing the Federal OSC may be EPA, DHS/USCG, the Department of Energy (DOE), or the Department of Defense (DOD), depending on the source and location of the release. Other Federal agencies provide Federal OSCs for hazardous substance removal actions that are not emergencies. This arrangement is summarized in the figures below. Under CERCLA section 106 and Clean Water Act section 311, EPA and DHS/USCG may also issue administrative orders to compel responsible parties to respond. (Certain other agencies also have order authority in certain circumstances.)

<sup>3</sup> See Title 40 CFR, part 300, sections 105, 120, 130, 135, 305, 322, and 415 in particular.

FIGURE 2. Federal On-Scene Coordinator for oil spills

Incident Location	Federal OSC
Inland Zone	EPA
Coastal Zone	DHS/USCG

FIGURE 3. Federal On-Scene Coordinator for CERCLA incidents

Incident Location/Source	Federal OSC for Emergency Phase	Federal OSC for Non-Emergency Removal and Remediation
Inland Zone	EPA	EPA
Coastal Zone	DHS/USCG	EPA (non-vessel incidents) DHS/USCG (vessel incidents)
DOD Vessel, Facility, Weapons/Munitions	DOD	DOD
DOE Facility, Vessel	DOE	DOE
Other Federal Facility	EPA or DHS/USCG	Individual Federal agency responsible for facility

**NCP National Response Center:** While not depicted in Figure 1, the NCP requires that oil and hazardous materials releases be reported to the National Response Center, operated by DHS/USCG for the NCP National Response System (NRS).

## Response Actions

**Notification and Assessment:** Under the NCP, the National Response Center receives notification of releases of oil and hazardous materials. The National Response Center immediately forwards the incident report to the appropriate pre-designated Federal OSC, the appropriate State, and other Federal entities (as previously arranged). The Federal OSC assesses the incident to determine the need for a Federal NCP response. The National Response Center also provides incident reports to the Homeland Security Operations Center (HSOC), and DHS assesses the incident to determine if it is an Incident of National Significance.

If the OSC determines that an incident is of a magnitude or complexity or involves national interests that may warrant declaration of an Incident of National Significance, the OSC reports the situation and recommendations through his/her regional or district management to the appropriate headquarters emergency response program manager, who notifies the HSOC and provides a recommendation to DHS. (This notification does not delay OSC response to the incident.)

**Response Coordination:** Upon DHS declaration of an Incident of National Significance involving oil or hazardous materials (for which ESF #10 is not activated) and/or notification of DHS's activation of any of the following mechanisms, the NCP structures coordinate with NRP components as follows:

### Headquarters-Level Coordination

**Interagency Incident Management Group (IIMG):** The NRT continues to function as provided under the NCP, but coordinates its activities with the IIMG when activated by DHS for the incident. The NRT Chair works with DHS during the incident to establish appropriate mechanisms for IIMG/NRT coordination. The NRT may also send a liaison to the IIMG to facilitate IIMG/NRT interactions, synchronize efforts, and avoid redundant or conflicting activities. In this case, the NRT liaison and NRT Chair work together to coordinate IIMG/NRT interactions. For an incident involving oil or hazardous materials, the key NRT agencies involved in the incident also are likely to have agency representatives on the IIMG.

Under the NCP, interagency issues that are not resolved by the OSC at the ICP level generally are referred first to the appropriate RRT agency representatives for resolution. If not resolved at the regional level, they are elevated to the NRT for consideration. NRT representatives may elevate the issues to higher level agency representatives for resolution as needed. For NCP incidents for which DHS activates the IIMG, the NRT Chair and/or NRT liaison makes arrangements to coordinate headquarters-level issues with the IIMG and provides NRT input to the IIMG as necessary. The NRT may be called upon to provide subject-matter

expertise in oil/hazardous materials responses to the IIMG. The NRT may also be called upon to provide input to the Homeland Security Council or other White House entities, through the IIMG.

**Homeland Security Operations Center:** EPA or DHS/USCG, depending upon which agency is responsible for the incident, uses its headquarters emergency operations center (EOC) to coordinate and manage national-level support. The NRT also uses the primary agency's EOC to coordinate its activities. While incident reports generally flow to the HSOC from the JFO once a JFO is established, the EPA or DHS/USCG EOC also keeps the HSOC apprised of incident management efforts. EPA, DHS/USCG, and other appropriate NRT agencies also provide representatives at the HSOC to support the coordination of information regarding NCP activities.

**National Response Coordination Center (NRCC):** Because this annex addresses oil and hazardous materials Incidents of National Significance that do not require the support of the ESF structure, it is unlikely that DHS will utilize the NRCC for such incidents. Under this annex, Federal resources are generally expected to be activated using NCP mechanisms, such as the RRTs and NRT.

As noted earlier, it is possible under this annex that the EPA or DHS/USCG could request additional Federal assistance from DHS via the NRP Federal-to-Federal support mechanism to obtain support not otherwise readily available under the NCP. In that case, if support from other agencies is significant, DHS may utilize the NRCC. EPA or DHS/USCG, as appropriate, as well as the agencies that are activated via the Federal-to-Federal support mechanisms, then provide representatives to the NRCC to provide information and coordinate activities at the national level.

**Interagency Modeling and Atmospheric Assessment Center (IMAAC):** The IMAAC is an interagency center responsible for the production, coordination, and dissemination of consequence predictions for an airborne hazardous material release. The IMAAC generates the single Federal prediction of atmospheric dispersions and their consequences utilizing the best available resources from the Federal Government.

## Regional-Level Coordination

### Regional Response Coordination Center

**(RRCC):** If DHS activates the RRCC, EPA or DHS/USCG and other agencies as appropriate provide representatives to aid in coordination of regional support efforts. Once established, the JFO is the focal point for multiagency coordination, and the RRCC plays a support role.

## Field-Level Coordination

**Principal Federal Official (PFO):** When a PFO is designated for an oil or hazardous materials incident, the agency providing the Federal OSC designates an SFO to work in coordination with the PFO at the JFO (or alternative location if a JFO is not established). The OSC continues to conduct his/her activities at the ICP. The OSC, SFO, and other responding agency representatives provide their full and prompt cooperation, resources, and support, as appropriate and consistent with applicable authorities. The SFO coordinates with the PFO on activities such as providing incident information to the PFO as requested, coordinating the public communications strategy with the PFO and DHS Public Affairs, and clearing Federal interagency communications to the public through the PFO. It is recognized, however, that in some cases, it may be necessary for responding OSCs to communicate with the media/public on tactical operations and matters affecting public health and safety from the scene, particularly during the early stages of the emergency response, in accordance with their responsibilities under the NCP. When established for a response, the Joint Information Center coordinates public communications among the agencies and between the ICP and JFO.

**Joint Field Office:** During Incidents of National Significance, a JFO may be established as a multiagency coordination center to provide support to the on-scene ICP. For oil and hazardous materials Incidents of National Significance that do not involve Stafford Act declarations or terrorist

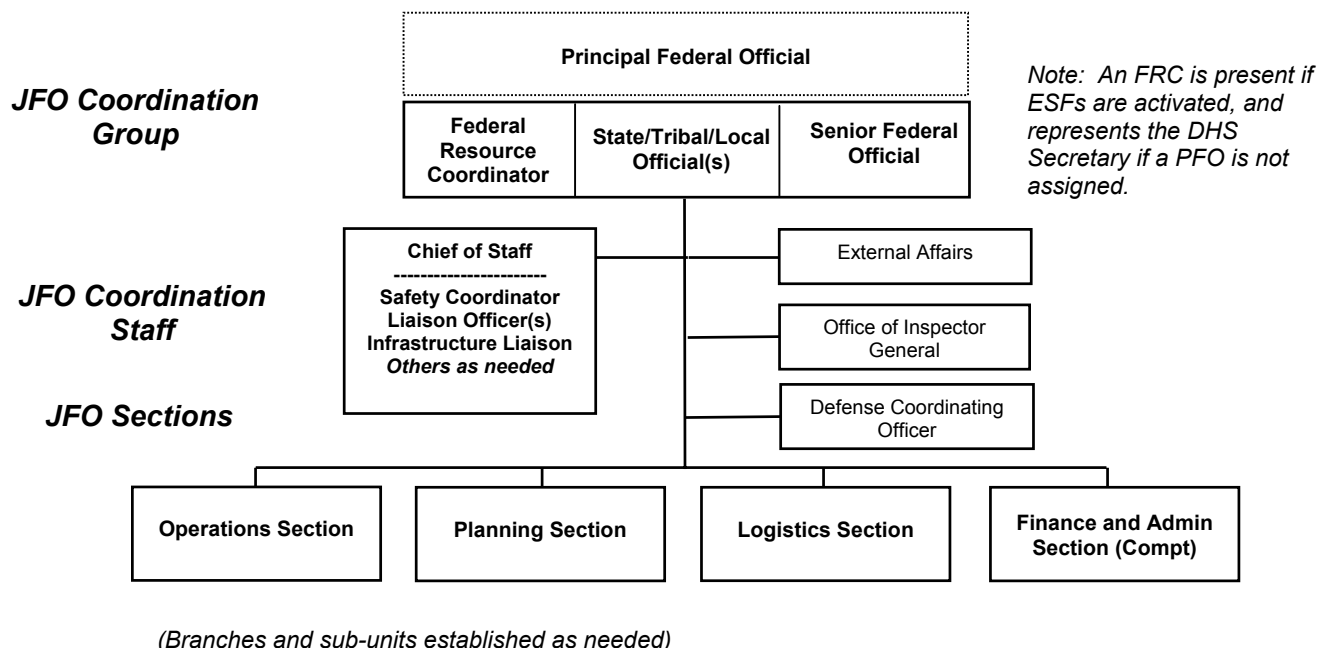
incidents, a JFO may not be necessary. The decision to establish a JFO is made by DHS on a case-by-case basis. The SFO confers with the PFO and other agency representatives regarding the establishment of a JFO. If an Area Command has been established, the JFO may be collocated with the Area Command. If neither a JFO nor Area Command is warranted, the PFO and PFO staff may be collocated with the ICP.

When a JFO is established, the JFO Coordination Group includes the PFO; the SFO from the agency providing the Federal OSC; State, local, and tribal officials; and, when applicable, a representative from the owners or operators responsible for the release. If other ESFs are activated to provide Federal-to-Federal support, a Federal Resource Coordinator (FRC) is also be part of the JFO Coordination Group. When a full JFO is warranted for an incident under this annex, Figure 4 illustrates the JFO organization.

During a SONS in DHS/USCG jurisdiction, DHS/USCG may establish an Area Command structure, known as a Regional Incident Command (RIC) or National Incident Command (NIC) depending on the level of coordination needed. The RIC/NIC organization is responsible for coordinating strategic direction and allocation of resources to support the Federal OSC with senior government officials. During an Incident of National Significance, the RIC/NIC coordinates its activities with the JFO, and the JFO would likely collocate with the RIC/NIC.

During an Incident of National Significance, the RRTs coordinate with the NRT and provide support to the OSC. The SFO coordinates RRT activities with the JFO as appropriate, and the RRTs support the JFO as requested. If an FRC is assigned to coordinate Federal-to-Federal support for the oil/hazardous materials response from other agencies, and the RRT is coordinating NCP support from NRT organizations, the SFO ensures that the RRT coordinates its activities with the FRC.

FIGURE 4. JFO organization for oil and hazardous materials Incidents of National Significance



## On-Scene-Level Coordination

Under the NCP, Federal OSCs determine the need for Federal response and have the authority to direct response efforts and coordinate all other efforts at the scene of a discharge or release in accordance with existing delegations of authority. The OSC generally joins an ICP already established by local authorities or designates an ICP at the site in accordance with the local ACP, and conducts activities from that ICP under a Unified Command. OSC efforts are coordinated with other appropriate Federal, State, local, tribal, and private response mechanisms through Incident Command System mechanisms. The OSC carries out his/her responsibilities outlined in the NCP and coordinates activities with the JFO Coordination Group. Typically, the OSC communicates with the SFO at the JFO, and the SFO coordinates with the PFO and FCO/FRC. The ICP Unified Command communicates with the JFO Coordination Group. Existing NRT agency-delegated decisionmaking and contracting authorities remain in place, and the OSC and other NCP agency representatives continue to report through chains of command established by their respective agencies.

An Area Command(s) may also be established for multiple-site incidents, which would be a Unified Area Command for multijurisdictional responses. If established, Federal agencies in the Area Command coordinate their activities with the JFO Coordination Group. Typically, Federal Area Command personnel communicate with their designated SFO in the JFO, and the SFO coordinates with the PFO and FCO/FRC. The Unified Area Command coordinates with the JFO Coordination Group.

**Continuing Actions:** Operational response phases are described in detail in the family of plans that include the NCP, Regional Contingency Plans (RCPs), and ACPs. In addition to the initial response actions of discovery, notification, and preliminary assessment, continuing response actions include: containment, countermeasures, decontamination, cleanup, and disposal; and documentation and cost recovery.

These plans also describe the national response priorities, general pattern of response, response to substantial threats to public health and welfare, SONSS, response to worst-case discharges, funding, and the roles of and coordination and consultation with natural resources trustees.

## Hazard-Specific Planning and Preparedness

Planning and preparedness for oil and hazardous materials incidents under the NCP involves Federal, State, tribal, and local governments; industry; the private sector; and bordering countries. Planning and preparedness is performed at the national, regional, and local levels, and incorporates stakeholder outreach and engagement at each level. The responsibilities for planning at each level are described in the NCP as follows:

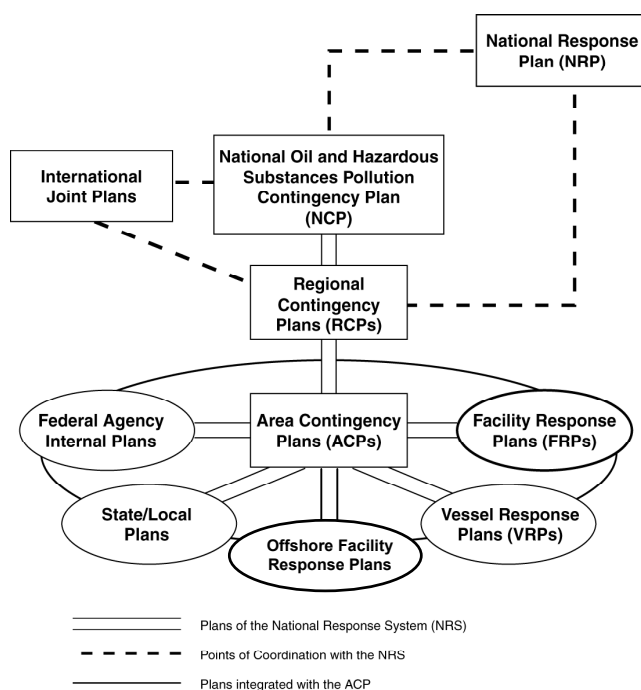
- **National Planning:** National planning and coordination for oil and hazardous materials incidents is accomplished through the NRT as described in 40 CFR 300.110 – National Response Team. The NRT coordinates with the DHS Emergency Support Function Leaders Group for planning activities related to concurrent implementation of the NRP and NCP.
- **Regional Planning:** Regional planning and coordination of preparedness and response actions is accomplished through the RRTs as described in 40 CFR 300.115 – Regional Response Team. The RRTs coordinate with the DHS Regional Interagency Steering Committees

for planning activities related to concurrent implementation of the NRP and NCP.

- **Local Planning:** As required by section 311(j) of the Clean Water Act, under direction of the Federal OSC for its area, Area Committees comprising qualified personnel of Federal, State, and local agencies are responsible for preparing Area Contingency Plans as described in 40 CFR Subpart C – Planning and Preparedness. Also, as provided by sections 301 and 303 of title III of the Emergency Planning and Community Right to Know Act of 1986, the SERC, appointed by the Governor, is to designate emergency planning districts, appoint LEPCs, supervise and coordinate their activities, and review local emergency response plans, which are described in the Emergency Planning and Community Right-To-Know Act of 1986 and 40 CFR 300.215 – Title III local comprehensive emergency plans.

Figure 5 shows the relationship of the plans under the National Response System and their supporting relationship with the National Response Plan.

FIGURE 5. Relationship of response plans under the NRS and coordination with the NRP





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## Responsibilities

### **Environmental Protection Agency and Department of Homeland Security/U.S. Coast Guard**

Responsibilities under the NCP include:

- Each agency provides the NRT Chair for NRT activations for incidents within its jurisdiction. EPA provides the NRT Chair and DHS/USCG the Vice Chair on a day-to-day basis.
- Each agency provides the RRT Chair for RRT activations for incidents within its jurisdiction. Each agency provides an RRT Co-Chair on a day-to-day basis.
- Each agency provides OSCs to direct response efforts and coordinate all other efforts at the scene of a discharge or release for incidents within its jurisdiction.

**Cooperating Agencies:** Federal agencies are to make available those facilities or resources that may be useful in a response situation, consistent with agency authorities and capabilities. During preparedness planning or in an actual response, various Federal agencies may be called upon to provide assistance in their respective areas of expertise, as indicated in 40 CFR 300.170 – Federal agency participation and 40 CFR 300.175 – Federal Agencies: Additional responsibilities and assistance.

In addition, assistance may be requested from the DHS Science and Technology Directorate for scientific support as described in the Science and Technology Support Annex, and from the DHS Information Analysis and Infrastructure Protection Directorate for information on sites with hazardous materials.

**Senior Federal Official:** The agency providing the Federal OSC also provides the SFO to coordinate with the PFO and participate in the JFO Coordination Group.

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